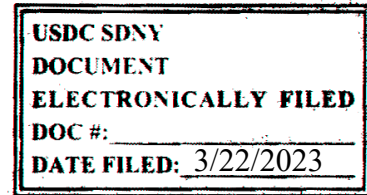


**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



-----X  
**GARY KEMP,**

**Petitioner,**

**20-CV-09121 (RA)(SN)**

**-against-**

**ORDER**

**JOSEPH NOETH,**

**Respondent.**

-----X  
**SARAH NETBURN, United States Magistrate Judge:**

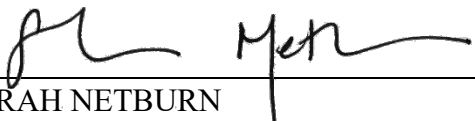
This case has been stayed on Petitioner's request to allow him to exhaust his state court remedies with respect to his claim for ineffective assistance of trial counsel. The Respondent has provided the Court with the January 12, 2023 decision of the New York County Supreme Court denying Petitioner's CPL § 440.10 motion. ECF No. 47. Before seeking federal habeas relief, Petitioner must still seek leave to appeal this decision in the Appellate Division within 30 days of receiving the state court's order. CPL § 460.10(4)(a).

On March 21, 2023, Petitioner indicated that he intends to exhaust his state court claims. ECF No. 49. However, the Court does not know when Petitioner received the state court's order to determine whether any leave application at this time would be timely; though, in a February 18, 2023 letter, Petitioner wrote that the "state court affirmed my case." ECF No. 45.

Accordingly, Petitioner is directed to file a letter with the Court indicating, with proof, when he received the state court's order and any subsequent filing he has made to exhaust his state court claims. Petitioner shall file this letter no later than April 5, 2023.

To the extent Respondent has information, Respondent may also file a letter.

**SO ORDERED.**

  
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SARAH NETBURN  
United States Magistrate Judge

DATED: March 22, 2023  
New York, New York